NGO Parallel Report to the Initial Report of the State of Palestine

Submitted to the Committee on Economic, Social and Cultural Rights

In accordance with Articles (16) and (17) of the UN International Covenant on Economic, Social and Cultural Rights

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This parallel report is submitted by the Women's Centre for Legal Aid and Counseling in cooperation with the NGO Forum to Combat Violence Against Women (Al-Muntada)[1], the General Union of Palestinian Women and Amal Coalition to Combat Violence against Women in the Gaza Strip[2]

The Women's Center for Legal Aid and Counselling (WCLAC) has a special consultative status with the UN Economic and Social Council (ECOSOC), and has led the development of this parallel report .with AL-Muntada, General Union of Palestinian Women and AMAL Coalition to Combat Violence Against Women in the Gaza Strip.

[1] Palestinian Non-Governmental Organizations Forum to Combat Violence Against Women (Al Muntada); Bisan Center for Research & Development, Palestinian Working Women Society for Development, Women's Centre for Legal Aid and Counselling (WCLAC), , Palestinian Counseling Center, Family Defense Society, Women's Studies Center, Sawa Organization, Young Women's Christian Association of Palestine (YWCA), Palestinian Family Planning and Protection Association, Rural Women's Development Society, Psycho-Social Counselling Center for Women (PSCCW), Health Work Committees, The Palestinian Initiative for the Promotion of Global Dialogue and Democracy (Miftah), Stars of Hope Society, QADER for Community Development, Mother's School Society.

[2] Amal Coalition to Combat Violence Against Women in the Gaza Strip; Women Affairs Center-Gaza, Center For Women's Legal Research & Counseling & Protection, Wefaq Society for and Child Care, Aisha Association for Woman and Child Protection, Al Ataa Charitable Society, Union of Palestinian Women's Committees, South Women Media Forum SWMF, Red Crescent Society for Gaza Strip.

Introduction

All organizations involved in preparing this report affirm that Palestine legal commitment to the ICESCR does not absolve Israel, the occupying power, of its responsibilities towards the 1967 occupied Palestinian territory (oPt). Your esteemed Committee and all other human rights treaty- bodies have affirmed that Israel, as the occupying power, has effective control over the oPt, and therefore human rights treaties and conventions are legally binding on all persons under its jurisdiction, including those in the oPt. Thus, we agree with State of Palestine's initial report, paragraph (6), and stress the need not to allow the occupying power to evade from its legal obligations in accordance with the provisions of International Humanitarian Law (IHL) and International Human Rights Law (HRL). Furthermore, we value what was stated in the concluding remarks of your Esteemed Committee on Israel's fourth periodic report; reiterating the need for the "State party to take fully into account its obligations under the Covenant to include information on the measures it puts in place to ensure the implementation of the rights enshrined the Covenant, and that they are enjoyed by all people in all the territories under its effective control." The Committee further stated that its evasion of its responsibilities towards the oPt undermines the enjoyment of the rights enshrined in present Covenant.

Publication of International Conventions in the Official Gazette:

1. The Palestinian Constitutional Court Decision No. (4) issued in November of 2017 came to clarify the legal value of the international conventions to which Palestine has acceded, as the court ruling stated that national legislation is unconstitutional in the event it violates the international convention, confirming the primacy of international treaties over national legislation. However, the Court constrained its decision by noting that international treaties and conventions would not be enforced if they opposed the Palestinian religious and cultural heritage. In other words, the decision established the principle of "cultural relativism," a principle that constitutes a stumbling block to the implementation of the provisions of this covenant and other international human rights treaties.

2. A successive decision by the Constitutional Court[3] further complicated matters by indicating that the legal value of international conventions and treaties is ranked lower than the Palestinian Basic Law. This comparison is legally fallacious as all Palestinian legal rules, in their varying hierarchies, are considered a homogenous unit of national law. The Constitutional Court's decision also clarified the official approach to law enforcement tools within the national law, cogitating that the State of Palestine is a "dual system," and that international treaties and conventions would not be automatically enforced in the national legal system once the treaty is acceded unless published in the official Gazette

3. Although the Palestinian Constitutional Court's decision created an unusual method unknown within the Dual System, which is the conditionality of publishing any convention to which Palestine acceded in the Official Gazette, to instruct a binding legal power to international treaties within the rules of national law; the State of Palestine has not yet published this Covenant in the official Gazette. Therefore, it is feared that even if the conventions are published in the Official Gazette, if ever, they will have no legal value in light of the Constitutional Court's aforementioned decisions.

[3] Decision No. (2) issued on March 12, 2018

4. **We Recommend to your esteemed Committee to request clarifications and include the following points in the List of Issues to the State of Palestine:**
   - **The State Party to clarify and remove ambiguities regarding the contradictions of the Constitutional Court's decisions regarding the hierarchy of international conventions and national legislation, and further explain the conditionality of the publication mechanism in the Official Gazette as a condition for legally enforcing the Covenant.**
   - **We welcome the State Party's publication of the Convention on the Rights of the Child on 27/7/2021 in the Palestinian Official Gazette, but ask the State Party to clarify the reason/s behind not publishing the ICESCR, CEDAW and all other treaties to which it acceded since 2014 in the Official Gazette, especially that the accession was at the same time?**
   - **Call on State Party to further clarify all administrative and legal measures undertaken to implement the Covenant.**

Right to Self-Determination (Article 1)

4. Institutions participating in this report emphasize the centrality of the right to self-determination, which will remain restricted as long as Palestinians, including Palestinian women, live under Israeli military occupation. The occupying power controls all Palestinian natural resources and systematically violates civil, political, social, economic and social rights. These are major obstacle to the realization of Palestinians to their right to self-determination.[4]
5. Despite that, the State of Palestine has legal obligations to undertake all necessary measures and procedures in order to achieve the right to self-determination for the Palestinian people, thus provide them with the opportunity to dispose of their natural resources and to be economically, socially and culturally empowered. This was expressed by the State of Palestine's Report on its commitment to the United Nations Sustainable Development Goals (2030), and its commitment to The Rio Declaration and Principles on the Rights of Peoples under Foreign Occupation to Self-Determination and the Right to Development.
6. The right of return to Palestinian refugees is a condition for the full realization of the right to self-determination; a right that cannot be exercised by refugee women while they are far from their homeland. Exercising the right to self-determination directly affects the protection owed to refugee women and young women, most of whom are considered stateless, which affects, in fact, their enjoyment of protection provided to those with a legal status. The situation of Palestinian refugees and refugee women is considered one of the thorny and complex situations due to the multiplicity of duty-bearers, namely: the Palestinian state, hosting countries, UNRWA, and the Israeli occupation authority. Article 1 of the Covenant guarantees that all peoples have the right of self-determination. Despite the fact that the State of Palestine guarantees the right of self-determination for all Palestinians in the amended Palestinian Basic Law in Articles 2, 5 and 26, Palestinians in general, and Palestinian refugee women and young women in particular, still face obstacles related to the exercise of this right. The international system considers this as a "jus cogens" that may not be disrupted or impeded in its exercise for all humans wherever they are, nor may it be compromised or fragmented.

[4] As the Human Rights Committee has reiterated, "self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights."

7. **We recommend to the Committee to ask State Party more clarifications on the following issues:**

- **What are the measures and procedures taken by the State of Palestine to implement Article 5 of the Sustainable Development Goals, which stipulates gender equality; and what are the measures taken in integrating gender equality in policies, legislation and development plans?**
- **Demand the need to establish a unified database for Palestinian refugees and women refugees in line with the right of return guaranteed under international law.**
- **We recommend to Committee the necessity of emphasizing the return of refugee women to their homeland, and the necessity of working with all international bodies to implement the resolutions and conventions issued by the United Nations on Palestinian refugees and to protect their right of return and the right to self-determination.**
- **We demand the Committee to bring each of the State of Palestine and the party host countries to accountability regarding the situation of Palestinian refugee women in the Diaspora with regard to economic, social and cultural rights and to ensure non-discrimination.**

Gender Equality and Non-Discrimination (Articles 2, 3, 4, 5)

8. When reviewing the State's report regarding Article 2 Paragraph 3, the guarantee of the rights was mentioned in both the Declaration of Independence and the Palestinian Basic Law, in particular Article (9); something we, as civil society organizations, value, but with some reservations due to the **absence of a national legislation system that includes a comprehensive definition of discrimination against women covering all prohibited grounds of discrimination and encompassing direct and indirect discrimination in both the public and private spheres.**. The Follow-up Report of the State Party to the CEDAW Committee indicated that the State Party has adopted a definition of discrimination in the draft Family Protection Bill (DFB) only, but not a comprehensive legal framework. However, the draft FPB is suffused with many problems; and the imbalance of power pertaining to gender-based discrimination is evident.
9. The guarantee of this right was also asserted in the concluding observations on the initial report of the State of Palestine on CEDAW, issued by CEDAW Committee, which recommended the State of Palestine to expedite the adoption of a national legislation that sets forth a comprehensive definition of discrimination against women. The Committee also stressed the need to review the Penal Code, which aims at prohibiting and punishing discrimination, and to include provisions for enforcement mechanisms and appropriate penalties.
10. The State Party indicates, in its report, Article 2, paragraph (6), that there are no accurate statistics on persons with disabilities in Palestine, including disabled women, due to several reasons: the lack of a registration and documentation system to register disabilities at birth or those that occur later, the lack of the disability indicator at the Ministry of Interior when registering births, as well as coordination between relevant government bodies (such as the Ministry of Health and the Ministry of Social Development) to document information about disabilities that may occur after birth. This fact led to scattered services provided to people and women with disabilities.
11. With regard to **Article 3 of the Covenant**, which guarantees the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant, we note that there are still gaps in government spending from a gender perspective. NGOs strive to achieve gender balance in ministries' policies, plans and programs, and emphasize the importance of reviewing them from a gender-sensitive perspective, so that they become responsive to the requirements and needs of marginalized social groups. In 2016, the Ministry of Women's Affairs formed a technical team to review public budgets from a gender perspective, however, this

attempt faced several obstacles, most importantly the lack of necessary data that reflect the extent to which marginalized groups benefit from public budgets. Moreover, the government continues to issue its actual spending reports based on item budgeting instead of program budgeting as is the case in the general budget, which led to difficulty in following up and monitoring general government spending in relation to its budgets; in addition to the absence of gender-based indicators.

12. Due to the COVID-19 pandemic, poverty has expanded in Palestine, and according to the estimates of the Ministry of Social Development (MOSD), the number of poor families has risen to about 170,000 families, which includes about one million Palestinian citizens. To this end, the MOSD increased the number of families benefiting from the financial aid program by about (10) thousand families, bringing the number of beneficiaries to about (120) thousand families. According to data issued by the Palestinian Ministry of Finance (MoF) in its report until December 2020, and despite that thousands of new Palestinian families became vulnerable and suffered economic hardships due to COVID-19 pandemic, financial aid payments were limited to the disbursement of (3)[5] payments to poor families out of (4) payments. This means that poverty further deepened with the poor and marginalized families loosing 25% of their welfare payments during 2020. Among the families benefiting from the program, the number of families headed by women amounts to 45,000 families. The payment of only three installments annually is alarming to poor families especially that it was also practiced in 2019.
13. As for the Civil Service Law No. (4) of 1998 and the amended Law No. (4) of 2005, it stipulates equality between men and women, as stated in the State report in Article 3, paragraph (16). However, there is no indication of equality in the civil service sector, as women still suffer from discrimination and marginalization. Among the approximately (85,000) female employees in the civil service sector distributed among (83) ministries and government agencies, opportunities for women to reach decision-making positions remain far less than those of males. While the percentage of women out of the total number of the General Personnel Council employees is (45.3%), (49.7% of them in the West Bank, compared to 32.9% in the Gaza Strip), the percentage of females in the senior level (director general and higher) is 11% compared to 89% for males, with some differences between West Bank and the Gaza Strip. In the West Bank, the percentage of women holding a senior rank is 15.3%, 29.4% in the first category, 54.2% in the second category, and 55.7% in the third category. While in the Gaza Strip, the percentages are 5%, 19.9%, 38.2%, 40% respectively).
14. The gender perspective review carried out by the General Personnel Council (GPC) in 2013 and 2014 concluded that "the strategic plan for the years 2013-2015 did not address the need for a gender plan through which gender equality is integrated into the objectives and interventions of the GPC," although "the declared and undocumented/institutionalized trends suggest the existence of a supportive approach and policy for integrating gender issues in the work of the GPC." In general, the review indicated that a series of changes must be made in the strategic plans of the GPC towards institutionalizing the issue of gender in the civil service.
15. Based on the recommendation made by the GPC towards enacting a new civil service law for the year 2020, this approach by the Palestinian government is seen as an appropriate starting point to enhance the participation of women in holding public posts[6], in line with the obligations of international standards and conventions on women's human rights, especially CEDAW and other relevant international standards. Moreover, it is noteworthy that reviewing the reports of the States parties to the CEDAW Convention proves that women are excluded from holding the

[5]Government Expenditure Gaps, Ministry of Social Development, 2020.

[6] Draft Law on Civil Service of 2020 - General Personnel Council, Cabinet session No. 64, July 6, 2020.

highest positions in ministries, civil service, public administration, judiciary, and systems of justice, and that it is rare for women to be appointed in these powerful positions.[7]

16. **We call on the Committee to request the State of Palestine to clarify the following issues:**

- **What are the reasons of the failure to take urgent and prompt measures regarding the adoption of a comprehensive national legislation to prohibit gender discrimination, including a comprehensive definition of discrimination on the basis of gender to be harmonized with all international conventions and treaties to which it has acceded?**
- **What actions have been taken by the State as direct measures to promote gender equality in relation to the adoption of a gender-sensitive budget?**
- **What are the results of the completed laws and legislation review process? What are the main recommendations and actions of the analytical studies carried out by the government on gender?**
- **What services and protection measures has the government provided to women to ensure their access to justice?**
- **What measures will the State of Palestine take to achieve changes in the strategic plans of the General Personnel Council towards institutionalizing the issue of gender in the civil service, with the aim of ensuring women's access to senior positions in the civil service sector, public administration, the judiciary, and systems of justice?**
- **What are the measures and procedures that the State will take to address the problem of the lack of accurate statistics for persons with disabilities in Palestine? What hinders the State of Palestine from having a unified system for registering and documenting disabilities, whether they are at birth or occur later? Why is there no disability indicator when registering births at the Ministry of Interior?**

Right to Work (Articles 6, 7, 8)

17. The Palestinian Central Bureau of Statistics (PCBS) indicated that the percentage of women's participation in the labor market decreased to 16% during 2020, which is lower than the percentage of their participation in 2019 when it constituted 18.1% of the labor force, and 20.8% in 2018. A quarter of women working in the private sector received wages less than the official minimum wage of (1,450 NIS) per month, and the number of female workers in the private sector decreased from (109) thousand women in 2019 to (98) thousand in 2020 of the total number of workers in this sector and its percentage which amounts to approximately 54% of the total of one million Palestinian workers in the West Bank and Gaza Strip. PCBS statistics also indicated that the unemployment rate among refugees is 36.6%, 29.9% among males, compared to 59.8% among females; which, in fact, is a violation of Article 7 of ICESCR
18. Regarding the unemployment among women, it accounted for (40%) of women participating in the labor market, compared to (23%) for men during 2020. As for women who hold a scientific qualification, it accounted for (69%) compared to (39) for males. 23% of women working in the private sector work without a contract, while only 62% of them obtain some labor rights such as contributing to the financing of retirement or end-of-service benefits, while only 60% of them obtained paid maternity leave during the 2020.
19. The State budget allocated to agriculture is only 1.5%, and the agricultural sector is not among the priorities of the State of Palestine, which has led to abandoning the agricultural sector and increase its cost for female farmers in Palestine.
20. Although Palestinian law proclaims the government's commitment to the right to work, Palestinians suffer from a very high unemployment rate, especially in the Gaza Strip; especially

[7] Committee on the Elimination of Discrimination against Women, Sixteenth Session (1997) General Recommendation No. 23 on Political and Public Life, UN Doc A/52/38.

young graduates. The government does not have comprehensive employment programs to absorb the unemployed. In addition, no adequate and efficient forms of unemployment protection or social security are available whatsoever. Additionally, despite the agreement between the trade unions and employers on the minimum wage, it has not been applied, especially in the private sector.

21. Palestinian women and men work under socially unprotected conditions, whether in the private local economy, or inside the Israeli settlements where there is no unemployment protection, old-age pension, disability insurance and other labor rights. Although there is a law that recognizes some rights, many of its articles, however, are not implemented. Over and above that, the wide spread of informal work, which mainly employs women, exposes many workers to blackmailing from their employers, or to lose their work under different circumstances.
22. All this comes in view of bias from the successive governments in favor of the private sector, the rich and the employers, where they provide them with various facilities under the Investment Promotion Law, and condone extensive tax evasion in this sector. The adoption a free market in an unfree country led to the fragility of the structure of the economy and employment, as well as to the marginalization of rights related to work and workers.
23. We agree with Paragraph (66) of the State Party's report regarding setting the minimum wage and Paragraph (67) regarding the widening gap between the average wages for males and females. This said, there is a huge gender pay gap, especially in the informal sector, where there is no adequate control over the minimum wage; that reinforces placing women on the margins of the labor market. Studies indicate that the Palestinian female worker receives a wage that is 20% less than the wage received by the male worker, especially in the private sector where legal oversight is limited.
24. We agree with Paragraphs 71, 72, and 73 of the State Party's report regarding sexual harassment in the workplace. We also affirm that none of the legislation in force in the State of Palestine has addressed the issue of sexual harassment in the workplace, or even sexual harassment in general, whether in the penal or labor legislation (Labor Law and the Palestinian Civil Service Law.) To this end, we recommend that sexual harassment should be expeditiously criminalized in national legislation in line with the ILO Convention on Sexual Harassment at the Workplace of 2019 (No. 190).

25. We agree with Article (6), Paragraph 54 of the State Party's report regarding the right to work without discrimination between men and women, with an emphasis on the need for at least 5% of the workforce should be constituted in any facility of persons with disabilities given that a large percentage of persons with disabilities are still outside the labor force. Moreover, women and young women with disabilities experience great difficulties and challenges in entering the labor market as a result of being disabled females. We refer to the reservations and observations to guarantee **the right to work for persons with disabilities without discrimination, especially the most marginalized, such as women: In Article (6) paragraph 55**: Note that the percentage of persons with disabilities who are outside the labor market has exceeded 87% according to the National Specialized Disability Survey in 2011. In Paragraph 57: clause on National Employment Strategy, it is necessary to include the rights of persons with disabilities to decent work and to engage in the labor market, as well adapting the workplaces for their needs within this strategy.

26. We Recommend to your Esteemed Committee to direct the following questions and clarification to the State of Palestine:

- **What are the measures it will take to reduce the unemployment rates among women and young women in the labor market? How can the State guarantee decent working conditions for them?**

- **How can the State of Palestine reduce the gap between the average wages for males and females? What measures will the State take to monitor the minimum wage in the labor market, especially in the private sector?**
- **What prevents the State of Palestine from criminalizing sexual harassment in public places and workplaces in particular? How can it reduce this phenomenon?**
- **What are the measures and procedures that State of Palestine will take through the commitment of the Ministry of Labor to inspect, monitor and take the necessary measures to ensure that 5% of persons with disabilities, especially women are employed?**
- **The need to expedite promulgating the Union Regulatory Law to ensure the real representation of workers in the various unions.**
- **What are the Priorities State of Palestine will have in order to develop a comprehensive national policy for the agricultural sector and enhance its components?**
- **What are the measures and procedures State of Palestine will take to improve the economic and social situation of rural women, such as targeting them with SMEs, cooperatives and producers' cooperatives,**

Social Security (Article 9)

27. Informal work, where many workers are exposed to blackmail from their employers or to lose their jobs under different circumstances, is widely spread. The government, represented by the Ministry of Labor, for instance signed an agreement with representatives of the private sector and trade unions in March to guarantee that wages for the months of March and April (50% per moth) are paid to workers in this sector, with a minimum of NIS 1,000. As for the sectors that have not been affected, they will continue to pay wages in full. However, this agreement was unfair to wage workers, as it violated the Labor Law that guarantees full wages for their full work. Also, the minimum wage set forth in the emergency plan is 1,000 NIS, which is less than the official minimum wage of 1,450 NIS, and even less than the extreme poverty line that is about 2,000 NIS.
28. The right to social security has not been implemented for workers, including persons with disabilities, to provide them with social insurance, and the State has failed to enforce this important right, nor applied the minimum 5% rate for employing persons with disabilities. Let alone to the twofold suffering women with disabilities experience in obtaining a decent job; meaning that the number of persons and women with disabilities who will benefit from social security is very limited.

29. We demand the Committee to bring the State of Palestine to accountability regarding the necessity of adopting a comprehensive and social security system that guarantees the protection of both men and women within a comprehensive social protection system

Family Rights and Violence (Article 10)

30. The State of Palestine report on ICESCR was not comprehensive when addressing the discriminatory aspects of the Personal Status Law on women and girls. The Personal Status Law reinforces the principle of inequality and discrimination against women. It should be noted that there is also an absence of a unified, modern and just Palestinian legislative system for personal status issues in Palestine, which negatively affects women's rights and reinforces the violence practiced against them within the private sphere
31. The Jordanian Personal Status Law (PSL) of 1976 applied in the WB and the Family Rights Law of 1954 applied in the Gaza Strip fall into the same crucible, as the two laws compromise a fertile discriminatory environment against women, especially since they are the only two laws that govern the private sphere, as discriminatory aspects can be seen in some articles of the law. The state of Palestine did not take measures to harmonize the Personal Status Law with CEDAW

Convention as recommended by the Committee in its concluding observations after the review of the initial report of the State of Palestine in 2018.

32. The only amendment inputted to the PSL was raising the age of marriage. This was reflected in the amendment to the provision of Article (5) of the law by decree (21) of 2019. The provision prior to the amendment stipulated that the minimum age for legal engagement was 16 years for males and 15 for females. The amended provision postulates that the minimum permissible age of the male and female to be engaged shall not be less than 18 solar years with exceptions under discretion of Sharia' judges. The practical exercise during the past two years showed that around 32% of the concluded marriage contracts during the first year after this legislative amendment were exceptional marriage contracts. This raises fears that the exception will become the rule. Recently, there have been repeated attempts to circumvent the law and its amendments by concluding customary marriage contracts with full consent of the family but hat are not officially registered with the competent Sharia courts or government departments, and imposing a fait accompli later in the event of pregnancy or the birth of children resulting from these marriages.
33. Although the Advisory and Legislation Bureau has justified the amendment to the provisions of Article 5 of the Personal Status Law as a step towards harmonizing the PSL with CEDAW, however, pressure exerted by the Office of the Supreme Judge of Sharia Courts and the Palestinian Fatwa Council nullified this legislative amendment. For example, the council has argued that, in the formulation of the PSL, it is not permissible to rely on international conventions only, but must rely heavily on Islamic Sharia. It further pointed out the necessity of realizing interests and avoiding "vices" in the event of a legislative amendment to the Personal Status Law.
34. The State Party's reports refers in paragraph 119 to a number of services it provides to persons with disabilities. Such services, however, are insufficient as they do not take into account the gender basis when provided, nor take into account the additional requirements resulting from the combination of sex and disability factors. Other conditions imposed by some laws prevent many persons and women with disabilities from receiving these services as well. For instance, customs exemption requires, based on the law, the presence of a lower-extremity physical disability only, and based on a specified disability percentage. Therefore, it is worth noting that this law lacks any articles that guarantee the right to a free and dignified life for persons with disabilities, especially children.
35. It is also worth noting the need to have reservation on the issue of disability diagnostic and classification services. In this regard, the State has not yet adopted clear criteria for the committee that performs the diagnosis, or clear criteria on which the diagnosis is based, or even the criteria and items of reports issued by the committee.

Rights and Responsibilities when Concluding or Dissolving a Marriage Contract and Custody Cases

36. The State of Palestine has not taken measures to implement Article 10 of the Covenant within the framework of guaranteeing equality in marriage, during marriage, or in the event of its dissolution. It did not set an equal gender-based vision or conception regarding the same rights to enter a marriage for both women and men, nor equal rights and responsibilities for women and men towards their children particularly in custody matters. Hence, the state of Palestine should have taken special measures of protection and assistance on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions, ensuring the full equality of rights as stipulated in the covenant.
37. In Article (10) on the protection of children in Paragraph 104 of State Party's report, providing emergency care for children in protection centers shall be considered. The emergency care centers that were mentioned are not suitable in terms of infrastructure nor in terms of human cadres to deal with children with disabilities and therefore are not able to receive them and provide them with any service like other children without disabilities.

38. We demand the Committee to bring the State to accountability regarding the following: the absence of measures and procedures taken by the State to guarantee equality in marriage, during marriage, or in the event of its dissolution, and the mechanism of providing protection for children and women with disabilities of their rights to a decent life..

- **List the reasons why the State of Palestine has not made tangible progress in harmonizing Personal Status Law with the provisions of international conventions and the present covenant, and its failure to comply with the relevant concluding observations of the CEDAW Committee.**
- **We demand that marriage age exceptions be immediately stopped. We also demand to expedite the formation of a national committee to oversee and monitor the application of lawful marriage age, criminalize child marriages and prosecute perpetrators who circumvent the law and do not register those informal marriages in the Sharia courts.**

Violence against Women in the Private Sphere (Domestic Violence) - Draft Penal Code of 2011:

39. The State of Palestine drafted Penal Code in 2011 to abrogate the Penal Code No. (16) of 1960 in force, and Penal Code No. (74) of 1936 in force in the Gaza Strip. However, this has not made much progress in addressing sexual offences.
40. The State of Palestine has amended the provisions of Article (98) of the Penal Code in the Decree-Law No. (10) of 2014, which stipulates stopping the use of mitigating excuses in honor killings. It has also amended provisions of Article (99) in Decree-Law No. (5) of 2018, which removes the ability for mitigating discretionary excuses to be used in cases of "honor killings". Despite this, we stress the inadequacy of the judicial enforcement of these amendments which has recently led to a steady increase in the rate of femicide. In this regard, WCLAC has documented (37) cases of femicide during 2020, and (24) cases in 2019.
41. We commend the efforts of the State of Palestine in repealing Article (308) of the 1960 Penal Code No. (16) that gives lenient sentence to the rapist who marries his victim. However, the execution of this legislative amendment requires the legalization of safe abortion for victims of rape and domestic abuse. We strongly believe that the Penal Code shall allow safe legal abortions for victims of rape.
42. According to the official CEDAW Follow-up Report, the State of Palestine had the intention to host meetings of specialist reviewers on the draft Penal Code at the start of 2020, but the meetings were postponed due to the Covid-19 pandemic in Palestine and its declaration of a State of Emergency. However, and in the presence of problematic provisions in the draft penal code, delaying the review of the draft law drafted of 2011 until 2021 cannot be justified under any circumstances.

Violence against Women in the Public Sphere

43. There has been no protection for women activists in Palestine, as physical and verbal violence has been practiced against them during their participation in peaceful protests and demonstrations against the policies of the Palestinian government in the West Bank and against the de facto Authority in the Gaza Strip. Both in terms of their rejection of the internal political division or during protests against the issuance of decisions of law affecting the interests of women, or against the behavior of the Palestinian government by violations of public freedoms in peaceful protests and its practice of arbitrary arrest on political grounds. We refer here to the recent events on June 26 and 27, 2021 and the attacks on female journalists and feminist activists during the peaceful demonstrations that took place in the West Bank, following the extra-judicial killing of activist Nizar Banat. The organizations submitting this report condemn the repression and abuse practiced by some security services against the male and female protesters through the use of

people in civilian clothes. This brings to notice the increasing rate of targeting the peacefully protesting women whether they were participants in peaceful demonstrations or journalists who were fulfilling their duty to cover the events. Through violent assault such as beating, physical and verbal harassment, as well as assaulting their personal property by confiscating and breaking their phones, cameras and personal belongings. This constitutes a functional failure that calls for holding the Palestinian government, its ministers, and Security Services responsible and accountable for not protecting the protesters male and female, in addition to holding them accountable for the continuation of the abuse thereafter. In a dangerous unprecedented of blackmail and defamation, some security services this time violated women's right to privacy and personal safety, as they confiscated and hacked their phones and posted their photos and personal conversations on members of some Security Services' social media accounts.

44. Targeting women and girls, in addition to the sexual harassment they have been subjected to during peaceful vigils, or during detention, power abuse by law enforcement officials, and the reinforcement of patriarchy is an invitation to violence and a threat to civil peace that encourages negative cultural perceptions about the presence and active participation of women in the public sphere that lead to stereotyping their roles.

45. **Accordingly, we demand the Committee to urge the State Party on the following demands:**

- **Expedite the review and approval of the draft Palestinian Penal Code in line with international conventions and references that guarantee human rights in general and women's rights in particular.**
- **Adopt a specific time frame for reviewing current laws, in cooperation with civil society institutions.**
- **Consolidate the legal systems in the Gaza Strip and the West Bank to ensure that all women, especially those with disabilities, have equal protection under the law.**
- **We demand the Committee to bring the State Party to accountability regarding the 'complex violence' practiced against women while peacefully demonstrating, and the reason behind the absence of protection for them in a way that guarantees accountability, reparation and ensuring non-recurrence; especially that these practices reinforced a negative cultural perception about the roles of women and girls by using them as a tool of "war", thus exclude them from the public sphere.**

Draft Law on the Protection of the Family from Violence:

46. In February, 2020, the MOSD presented a new draft Family Protection Bill (FPB) contradicts the version that was agreed upon with civil society institutions in 2017. After making minor amendments to the February version, the MOSD submitted the draft law to the Cabinet on May 11, 2020.
47. The draft FPB was referred to the MOSD, the Ministry of Women's Affairs and the Ministry of Justice for reassessment through a technical committee comprised of government institutions and civil society organizations. Civil society and women's institutions most prominent observations centered on the need to include a number of fundamental definitions that are absent from the current version. Civil society institutions also pointed out the need to stop invoking custom, traditions and the protection of the family and maintaining its reputation. This considered, redressing the imbalance in human and gender relations in both the public and private spheres requires the existence of a strong legal system that is primarily based on the human rights-based approach. It is also crucial for the law to include effective mechanisms for the protection and reintegration of the victim into society, as well as to include effective mechanisms to protect service providers and rehabilitation of aggressors.

48. The new version of the law should also include an article that deals explicitly and in detail with the State's full obligations towards combating domestic violence. The State should as well allocate an item on its budget to implement this law.
49. The law should grant women and girls with disabilities special protection from gender-based violence, given the conditions of their double marginalization stemming from their gender and disability.

50. We Recommend to the Committee to urge the State Party on the following demands:

- **Urge the State of Palestine to expedite enacting a law to protect the family from violence. We also stress the need to provide the five obligations imposed on the State Party based on the due diligence standard stressed by customary international law: prevent violence against women, protect women from violence, prosecute and punish perpetrators of violence, and provide redress to violence victims. What are the measures taken by the State of Palestine regarding its due diligence obligation?**
- **What are the measures has the State taken to protect women with disabilities i.e. a protection system that includes women with disabilities?**
- **Call on the State Party allocate financial resources for the implementation of the FPB.**

The Right to Adequate Housing and Adequate Standard of Living (Article 11)

51. The right to housing, property and land tenure are basic rights for women and a social and economic necessity for gender equality. These rights are a determining factor in the living conditions and economic security of families, especially for families headed by women. Despite this, women in general still lack disproportionately security of these rights.
52. Women are considered the most affected by the factors and conditions that impede their enjoyment of the right to housing, property and land in the context of the prevailing system of traditions and customs, which negatively affect women's ability to enjoy these rights.
53. We agree with paragraph (163) of the State Party's report, as systematic military operations in the framework of its aggressive policy towards its citizens are launched from time to time against their right to life, right to housing and the possession and ownership of land. These destructive policies have affected homes, farms, factories, businesses, NGOs and official institutions, places of worship, schools and universities. At the same time, it continues to impose restrictions on the residents of the Gaza Strip to deprive them of living and economic security by banning the entry of goods, basic and essential materials, and raw materials.
54. Although Palestinian laws give women and men equal rights to land ownership and tenure and the right to housing; however, women in Palestine face many challenges in enjoying these rights. Whereas the legal guarantee of house occupancy is considered one of the most important principles of the right to adequate housing, still we find that many Palestinian women cannot enjoy this except through their relationship with men (fathers, husbands, brothers or sons
55. In the absence of women in the committees for the reconstruction of Gaza after Israeli military aggression, those in charge of these projects perpetuate the traditions and customs of the 'head of the house', often men – who enjoy benefits of the use of land or property contracts. Thus, the right of women to enjoy legal security of joint tenure is absent, despite the need to assist women in protecting their property rights in the event of a husband's death or divorce.
56. In this context, and in reference to the United Nations Special Rapporteur on adequate housing's statements regarding property systems that recognize common rights and equal participation of powers between spouses, we reiterate that they are the best ways to protect women's right to adequate housing and equality. Besides, the CEDAW Committee called on the government of Sri Lanka to abolish the concept of "household head" and recognize joint ownership over land. Such

policies if implemented by governments and international agencies, can lead to ensuring property rights over land and protecting women's rights to housing.

57. The refugee camps in the Gaza Strip and the West Bank have long suffered from overpopulation and the lack of basic services. As a result, women are affected by these unhealthy conditions, especially the lack of water at their homes. They also have to stay home for a long time to take care of children and the elderly.
58. Women's enjoyment of their rights to property – real estate or land – is an essential element in their economic empowerment. It increases women's participation in decision-making at the family level, and provides them with a number of options that greatly help them deal with economic crises. It also provides them with the necessary security and protection in the event they lose the main source of income provided by men "in the event of divorce or the death." Women who feel safe and make decisions at the family level often have an active participation at the broader community level.
59. With regard to the MoSD combating programs, they still fail to include a gender perspective regarding the services they provide. This negatively affects women below the poverty line and undoubtedly on women with disabilities, as the Ministry's financial aid program is still run based on indicators that pertain in general to the family as a single unit, and does not take into account a disability criteria.

60. We demand the Committee to urge the State Party to clarify the following:

- **Does the State take into account gender issues in land planning policies? Is part of these lands allocated to the most marginalized groups, such as women?**
- **We appreciate the assignment of two women from the Gaza Strip to the recent reconstruction committee for the first time, but why were women excluded from the previous committees of 2014 and 2001? How can it be ensured that they have an effective role in the current reconstruction committees, taking into consideration the needs and priorities of women affected by the Israeli military aggression?**
- **We demand a law that regulates the ownership of joint funds between spouses, and legally regulate all matrimonial funds equally between the spouses**
- **Are there programs in place that target Palestinians of Jerusalem, especially women, who face twofold suffering resulted from the practices of the occupation in Jerusalem and Area C? Are there steadfastness programs for the Palestinians in these areas?**

Right to Health (Article 12)

61. Contrary to what was mentioned in the State Party's report in paragraphs 172 and 173 with regard to the health system stipulated in Article 22 of the Basic Law, the PA's withdrawal from the field of social services led the society to live under the weight of weak competence of the government and the Ministry of Health. Not to mention the inefficient and unfair structure of the health system that is full of corruption, lacks good governance and does not have inclusive health coverage, nor a mandatory health insurance for citizens, therefore becoming subject to the private health sector and its costly services. These combined reasons prompted the government to compensate for its failure in providing adequate health services through taking administrative measures, although inevitable, but they did not provide the minimum level of readiness required to face disasters and epidemics.
62. With regard to paragraph 175 of the State's report, which refers to the ease of costs of health care services and private and public health insurance, it contradicts what is really on the ground. The unfair approach of the health system was reflected in the PA's expenditure of its budget and the distribution priority among the various social and development sectors. During the past decades, the Palestinian Authority did not make a serious investment in the infrastructure of this sector,

but rather relied mainly on international donors, United Nations institutions and the civil sector in the implementation of public services, including in the health sector.

63. The health insurance system is characterized as "gender-neutral" in the sense that it does not take into account the needs of both sexes based on their roles and the social and cultural reality. Women receive free health care services related to pregnancy and shortly after childbirth for the purposes of family planning and health supervision resulting from childbirth only, without taking into account the sexual and reproductive health care issue. A high percentage of women are deprived of compulsory health insurance, or reduced insurance, as official data indicates that the percentage of women participating in the labor force does not exceed 18%. It also indicates the high employment of women in the informal sector, and their limited affiliation with unions and federations. The percentage of female household heads accounted for 11%, and it is worth noting that the poverty rate among individuals who belong to families headed by females accounted for (30.6%), which indicates that poor women are classified under 'social cases' who benefit from health insurance through the MoSD as a grant and not as a right.
64. Based on expenditure reports, the actual expenditure achieved in the middle of the year 2020 amounted to (659.4) million NIS. While the budget ceiling of the Ministry of Health for the year 2020 amounted to (1,945) million NIS, that is, the actual expenditure during the half of the year 2020 is 34% of the allocated expenditures. Despite the fact that half a year has passed and the outbreak of the COVID-19 pandemic, and the accompanying state of emergency, in which the Ministry of Health was at the forefront to face the pandemic; the gap is concentrated in the item of goods and services. This item includes "purchasing medicines" and "medical referrals" in addition to other items. The actual spending on this item in the first half of 2020 amounted to (254.7) million NIS, while the financial ceiling allocated for it on the budget, according to 2020 report, amounted to (1,075) million NIS. This means that the actual spending rate on goods and services amounted to (23.7%)[8]. This gap is reflected in the lack of medicines, especially for people with chronic diseases, in addition to the accumulation of programmed operations, which threatens to form enormous pressure on the Ministry on the one hand, and deprive marginalized groups enjoy their right in obtaining a quality health service.
65. In the light of the COVID-19 pandemic, this was also reflected by multiple manifestations that expressed the presence of corruption and mismanagement in addition to the absence of objective standards in dealing with the available resources. These include: mismanagement aid distribution to poor families by the government, as the resources were not sufficient from the Waqfet Izz Fund, while the government did not make up the deficit in this fund. The distribution process was also marred by favoritism and preferences for certain families over the others, not on the basis of their need, but based on relation to the source of distribution at family, local or political levels. In addition to mismanagement that accompanied the process of providing vaccinations were no strict priorities were taken into account; let alone the corruption that accompanied the recent vaccination deal, which were about to expire. Despite all the attempts and efforts exerted by the government and the Ministry of Health, health care services continued during the pandemic - as before it - to suffer from a lack of medical staff and poor equipment, in addition to mismanagement.
66. At the policy level, the health rights of persons with disabilities remained the subject to jurisprudence based on the conflict of laws and the lack of their regulations and bylaws as well; despite many efforts exerted by civil society organizations. A group of people with disabilities, however, held an open sit-in in the Legislative Council for a period of 63 days, supported by many bodies and activists. This step resulted in the Cabinet's endorsement of a government health insurance system in 2021 for persons with disabilities and their families in line with the Basic Law and the Law on the Rights of the Disabled No. 4 of 1999. Nonetheless, many obstacles prevent the

[8] http://www.miftah.org/Publications/Books/Actual_Spending_on_the_MoH_in_2019_En.pdf

translation of many of its articles into entitlements, mostly due to the lack of a just and credible national reference for diagnosing and evaluating disability based on international standards.

67. The State's report indicates the existence of a disability program at the Ministry of Health. To this end, there is no designated unit or program to ensure the inclusion of persons with disabilities in all departments, programs and interventions of the Ministry of Health which keeps the Ministry's interventions in connection with the health rights of persons with disabilities far from institutionalization, commitment and professionalism. The largest number of interventions referred to in Paragraph 181 of the State Party's report are merely selected interventions implemented by civil society institutions in cooperation with the Ministry. These interventions were not part of a clear and published plan of the Ministry's administrative and financial responsibilities.

68. We recommend to the Committee to urge the State Party to clarify the following:

- **What are the guarantees provided by the State to the most marginalized groups, to benefit from the mandatory government health insurance especially that it is a family-based system instead of individual-based, hence no guarantees for individuals?**
- **What measures has the State taken to improve the health sector, especially during the COVID-19 pandemic?**
- **What are the measures taken by the State regarding the privatization of the health sector?**
- **The investigation committee's report on the Pfizer vaccine deal indicated many violations, careless, and poor follow-up and coordination by several political and administrative levels. Accordingly, we ask the State Party to clarify the criteria on which it based its vaccination distribution of Pfizer vaccine.**

Right to Education (Articles 13 and 14)

69. With reference to what was stated in the State's report in Paragraph 250 regarding the efforts made by the Ministry of Education to reduce the phenomenon of school dropouts; and in reference to Paragraph 221 on "the percentage of secondary stage education for young people out of school decreases from year to year"; we would like to note that recent studies indicate the persistence of the phenomenon of child marriages for girls. The percentage of child marriages (under 18 years of age reached 20% of the percentage of marriage contracts in 2018, according to the statistics by PCBS); which, in result, child marriages undoubtedly means depriving girls from their right to education.
70. We agree with what was stated in the State's report, paragraph 220, regarding enrollment rates in school education. Although education at the basic level is compulsory and almost free in schools run by the government and UNRWA, the report referred to the measures taken by the Ministry of Education to make secondary education available to all (Paragraph 248.) However, there are still many villages located in remote areas and in the Jordan Valley that lack secondary schools. This forces students to travel to nearby villages or cities, whereas girls are usually deprived of this due to the conservative patriarchal culture that prevents girls from traveling for many reasons, including: cost of transportation, the possibility of mixing with males during their travel, and the possibility harassment by Israeli soldiers at checkpoints or by Israeli settlers on different roads.
71. We do not agree with what was stated in the State's report in paragraph 209 regarding the official curricula. Based on the observations made by women's organizations on the school curriculum regarding its discriminatory culture in favor of males in terms of gender-neutral language and in terms of its content, and despite the agreement on the formation of a joint committee to review this issue, the Ministry of Education, however, changed the curricula without taking the observations into consideration, and even without increasing their gender-sensitivity.

72. The curricula at school still focus on the distribution of traditional roles and neglect gender equality, especially in primary stage schoolbooks. This dedicates traditional roles, concepts and values of the new generations. A positive progress has been achieved in primary curricula only, by using gender-neutral pronouns (instead of using masculine or feminine. However, history schoolbooks still dedicate the roles of male heroes in history and ignore any roles women have played throughout history.
73. The State Party did not take the necessary measures to implement an inclusive education policy through making the required amendments in the approved educational system to institutionalize inclusive education. The Ministry of Education lacks a consolidated vision on the concept of inclusive education and how to institutionalize it. In this regard, a huge gap can be seen between decision-makers and executive bodies at the Ministry's various levels and departments.
74. The Ministry of Education and Higher Education on the one hand accepts students with disabilities in public schools without providing the necessary support to them and without taking the necessary measures that would qualify the administrative and educational staff on this matter, nor to prepare students and parents to accept and welcome them. On the other hand, the Ministry does not monitor the school dropout rates of students with disabilities despite the fact that institutions working in the field of disability recorded many cases.
75. The State has not taken any promotional measures to ensure that girls and women have access to the right to education in connection with the cultural and social context prevailing in Palestine, which causes many girls and women to be deprived of the right to education. This adds more burden on girls and women with disabilities in terms of adding to the already existing social and cultural heritage difficulties, the difficulties related to the disability itself and in the context of the negative stereotype of girls and women with disabilities. There are no accurate statistics on girls and women's dropout rates, especially those with disabilities, from education in all its stages, or even on those who were not enrolled in any education at all.
76. Despite the reformation and activation of gender units in the structure of ministries and government institutions since 2008, the role of these units is almost formal, as they usually report directly to the office of the deputy minister without specifying their powers, and despite that the Cabinet Decision No. (1/05/13/m.w/sf), issued in 2009, that stipulated that annual budgets of government ministries must be gender sensitive, and that gender units must be involved in their preparation. The gender at the Ministry of Education for instance does not have the right to interfere in reviewing and making observations on educational curricula, or even have any power over job appointments from a gender perspective, nor even on the sensitivity of school buildings to different gender needs.

77. We demand the State Party to clarify the following:

- **What are the special measures and procedures has been taken in order to guarantee equal opportunities for the right to education in all its stages and types for girls and women, especially those with disabilities?**
- **What are the strategic plans taken by the State with the aim of harmonizing education with the development plan instead of harmonizing it with the capitalist labor market?**
- **What are the measures taken by the State in order to reduce the cost of higher education in Palestine?**